

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

HAROLD WINGETT)	
Claimant)	
VS.)	
)	
TRANS WORLD AIRLINES, INC.)	Docket No. 219,064
Respondent)	
AND)	
)	
INSURANCE CO. STATE OF PENNSYLVANIA)	
Insurance Carrier)	

ORDER

Claimant requested review of the preliminary hearing Order entered by Administrative Law Judge John D. Clark on January 27, 1997.

ISSUES

The single issue for review is whether the parties are covered by the Kansas Workers Compensation Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board finds as follows:

The issue of whether the Kansas Workers Compensation Act applies to the parties is a certain defense that grants the Appeals Board review of a preliminary hearing order. See K.S.A. 1996 Kan. Supp. 44-534a.

Claimant was injured while working for respondent in St. Louis, Missouri, on May 25, 1995. Claimant, at the time of his injury, was a long-time employee of respondent, having been hired by respondent in Chicago, Illinois, in August 1968. Before being transferred

in January 1995 to St. Louis, Missouri, claimant had worked for respondent for 18 years in Wichita, Kansas. Claimant remained a resident of Wichita, Kansas, while working for respondent in St. Louis, Missouri. As a result of a labor arbitration decision, claimant was transferred back to Wichita, Kansas, on November 11, 1996.

Although claimant was injured while working outside the state of Kansas, claimant argues the Kansas Workers Compensation Act applies to the parties because claimant's principal place of employment was within the state of Kansas and the contract of employment between the claimant and respondent was also made within the state of Kansas. See K.S.A. 44-506.

Claimant asserts that since he was transferred to St. Louis, Missouri, from Wichita, Kansas, in violation of the collective bargaining union contract, claimant's principal place of employment at all times remained in Wichita, Kansas. Claimant further asserts that the contract of employment between he and respondent was made in Kansas because claimant was covered under a collective bargaining agreement while working in Wichita, Kansas.

The Appeals Board disagrees with claimant and thus affirms the Administrative Law Judge's Order finding that the Kansas Workers Compensation Act, in this case, does not apply to the parties. The Appeals Board concludes the claimant was permanently transferred by respondent to work in St. Louis, Missouri, in January 1995. Claimant's permanent work place was in St. Louis, Missouri, at the time of his injury on May 25, 1995, and claimant continued to work in St. Louis, Missouri, until he was transferred back to Wichita, Kansas, by respondent on November 11, 1996. Furthermore, the Appeals Board also concludes claimant's contract of employment was made in Chicago, Illinois, at the time he commenced his employment with respondent in 1968 and not in the state of Kansas.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge John D. Clark, dated January 27, 1997, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

c: Vincent A. Burnett, Wichita, KS.
Joseph Seiwert, Wichita, KS.
John D. Clark, Administrative Law Judge
Philip S. Harness, Director